

1 On April 20, 2004, the Department served the Statement of Charges, cover letter dated April
2 20, 2004, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for
3 Adjudicative Hearing for NARES and Santoli, on Respondent NARES's Registered Agent (CT
4 Corporation System) by sending a package containing the documents to 520 Pike Street, Seattle,
5 Washington, 98101 via certified mail, and by sending a package containing the documents and notice
6 of service on the Registered Agent to 5655 Lindero Canyon Road, Suite 202, Westlake Village,
7 California, 91362 (Lindero Canyon Address), the business address provided by Respondents in
8 Respondent NARES's license application to the Department (the last address of Respondent NARES
9 on file with the Director), via registered mail, as required by RCW 19.146.260. The documents sent
10 via certified mail and registered mail were delivered by the United States Post Office on April 21,
11 2004 and April 23, 2004, respectively.

13 On April 21, 2004, the current tenant at the Lindero Canyon address contacted the Department
14 and stated she had signed for a package addressed to Respondent NARES and Respondent Santoli, but
15 that Respondent NARES had moved approximately two months prior. On April 21, 2004, after the
16 attempt at service to the Lindero Canyon address, the Department made a telephone call to Respondent
17 NARES and was informed by the receptionist that Respondent NARES's updated business address
18 was 31255 Cedar Valley Drive, Suite 201, Westlake Village, California, 91362 (Cedar Valley
19 address). On April 22, 2004, the Department served the Statement of Charges, cover letter dated April
20 22, 2004, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for
21 Adjudicative Hearing for NARES and Santoli, on Respondents by sending packages containing the
22 documents to the Cedar Valley address via Federal Express overnight delivery and by first class mail.
23 On April 23, 2004, the documents sent via Federal Express overnight delivery were delivered. The
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1 documents sent via first class mail were not returned to the Department by the United States Post
2 Office.

3 On April 27, 2004, the Department received a letter purportedly sent on Respondent NARES's
4 behalf. The letterhead listed Respondent NARES's Cedar Valley address. The letter, signed by Denis
5 Santoli and dated April 23, 2004, disputed the allegations in the Statement of Charges, indicated that
6 legal action was being considered against the State of Washington in this matter, and attempted to
7 withdraw Respondent NARES's license application. On May 11, 2004, the Department responded
8 with a letter to Respondent Santoli at Respondent NARES's Cedar Valley address. The Department's
9 response letter stated that the April 23, 2004 letter from Denis Santoli gave the Department no
10 indication that it represented the position of Respondent NARES or Respondent Santoli and, even if it
11 did, the attempted license application withdrawal did not resolve the Statement of Charges. The
12 Department's response letter further stated that if the April 23, 2004 letter were intended as
13 Respondents' response to the Statement of Charges, the Department would construe the April 23, 2004
14 letter as a request for an Adjudicative Hearing but asked Respondents to confirm this request by
15 completing the enclosed blank Application for Adjudicative Hearing for Respondent NARES and
16 Respondent Santoli. To date, the Department has received no further correspondence from
17 Respondent NARES, Respondent Santoli, or Denis Santoli.
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19 On June 18, 2004, the Department made a request to the Office of Administrative Hearings
20 (OAH) to assign an Administrative Law Judge (ALJ) to schedule and conduct a hearing on the
21 Statement of Charges. On July 2, 2004, OAH issued a Notice of Prehearing Conference by Telephone
22 scheduling a prehearing conference on Wednesday, July 21, 2004 at 9:00 a.m. That Notice stated "If
23 you fail to appear or participate in the prehearing conference, hearing, or any other scheduled stage of
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1 these proceedings, you may lose your right to a hearing as described in RCW 34.05.440.” On July 2,
2 2004, OAH sent the Notice of the July 21, 2004 prehearing conference to Respondent NARES’s Cedar
3 Valley address.

4 On July 21, 2004, ALJ Brian O. Watkins (ALJ Watkins) convened the prehearing conference
5 at 9:00 a.m. Respondents failed to appear. ALJ Watkins telephoned Respondent Santoli at
6 Respondent NARES’s telephone number and, after being told Respondent Santoli was unavailable,
7 left a message with the receptionist that Respondent Santoli was expected to appear for a telephonic
8 prehearing conference and should return the telephone call immediately. ALJ Watkins orally
9 continued the prehearing conference until July 23, 2004 at 9:00 a.m. to allow Respondent Santoli time
10 to contact OAH. On July 23, 2004, ALJ Watkins convened the prehearing conference at 9:00 a.m.
11 Since Respondent Santoli had failed to contact OAH, ALJ Watkins again attempted to reach him via
12 telephone but was only able to reach a voicemail system. The Department moved for an order of
13 default based on Respondents’s failure to appear. On July 26, 2004, ALJ Watkins issued a Default
14 Order that the Department’s Statement of Charges be affirmed. On July 26, 2004, OAH sent the
15 Default Order to Respondent NARES’s Cedar Valley address.
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17 Pursuant to RCW 34.05.440(3), Respondents had seven days from the date of service of the
18 order to file a written motion with OAH requesting that the Default Order be vacated, and stating the
19 grounds relied upon. Respondents did not make a request to vacate during the statutory period.
20 Pursuant to RCW 34.05.464 and WAC 10-08-211, Respondents had twenty days from the date of
21 service of the order to file a petition for review of the Order of Default and Initial Order with the
22 Director. Respondents did not file a petition for review during the statutory period.
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1 B. Record Presented. The record presented to the Director for his review and for entry of
2 a final decision included the following:

- 3 1. Statement of Charges, and cover letters dated April 20, 2004 and April 22, 2004;
- 4 2. Notice of Opportunity to Defend and Opportunity for Hearing;
- 5 3. Blank Application for Adjudicative Hearing for North American Real Estate Service,
6 Inc. and Andrew Santoli, President and Owner;
- 7 4. Documentation of service for Statement of Charges, Notice of Opportunity to Defend
8 and Opportunity for Hearing, Blank Application for Adjudicative Hearing for North
9 American Real Estate Service, Inc. and Andrew Santoli, President and Owner, and
10 cover letters dated April 20, 2004 and April 22, 2004;
- 11 5. Letter from Denis Santoli to the Department dated April 23, 2004;
- 12 6. Letter from the Department to Andrew Santoli dated May 11, 2004;
- 13 7. Request to OAH for Assignment of Administrative Law Judge;
- 14 8. Notice of Prehearing Conference by Telephone dated July 2, 2004, with
15 documentation of service;
- 16 9. Default Order dated July 26, 2004, with documentation of service;

17 C. Factual Findings and Grounds For Order. Pursuant to RCW 34.05.440(2), the
18 Director hereby adopts the Statement of Charges, which is attached hereto.

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1 II. FINAL ORDER

2 Based upon the foregoing, and the Director having considered the record and being
3 otherwise fully advised, NOW, THEREFORE:

4 A. IT IS HEREBY ORDERED, That:

- 5 1. Respondent North American Real Estate Services, Inc.'s application for a
6 Mortgage Broker's license is denied; and
7 2. Respondent North American Real Estate Services, Inc. pay an investigation fee in
8 the amount of \$966.16, calculated at \$37.16 per hour for the thirty-six (36) staff
9 hours devoted to the investigation, less the ten (10) staff hours paid out of
Respondents' application deposit.

10 B. Reconsideration. Pursuant to RCW 34.05.470, Respondents have the right to file a
11 Petition for Reconsideration stating the specific grounds upon which relief is requested. The Petition
12 must be filed in the Office of the Director of the Department of Financial Institutions by courier at 150
13 Israel Road SW, Tumwater, Washington 98501, or by U.S. Mail at P.O. Box 41200, Olympia,
14 Washington 98504-1200, within ten (10) days of service of the Final Order upon Respondents. The
15 Petition for Reconsideration shall not stay the effectiveness of this order nor is a Petition for
16 Reconsideration a prerequisite for seeking judicial review in this matter.

17 A timely Petition for Reconsideration is deemed denied if, within twenty (20) days from the date
18 the petition is filed, the agency does not (a) dispose of the petition or (b) serve the parties with a written
19 notice specifying the date by which it will act on a petition.

20 C. Stay of Order. The Director has determined not to consider a Petition to Stay the
21 effectiveness of this order. Any such requests should be made in connection with a Petition for Judicial
22 Review made under chapter 34.05 RCW and RCW 34.05.550.
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1 D. Judicial Review. Respondents have the right to petition the superior court for
2 judicial review of this agency action under the provisions of chapter 34.05 RCW. For the requirements
3 for filing a Petition for Judicial Review, see RCW 34.050.510 and sections following.

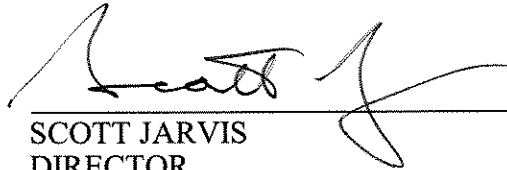
4 E. Service. For purposes of filing a Petition for Reconsideration or a Petition for
5 Judicial Review, service is effective upon deposit of this order in the U.S. mail, declaration of service
6 attached hereto.

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8 DATED this 20th day of April, 2005.



STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS

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SCOTT JARVIS
DIRECTOR